

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JAMIE CHUN-LEE, :
: Plaintiff, :
: : Civil Action No.
v. :
: MAREK TOCZYLAWSKI, L&M EXPRESS, :
LLC, JOHN DOES 1-4, and ABC CORPS. 1- :
4, fictitious persons and business entities :
whose identities presently are unknown :
: Defendants. :

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NOTICE OF REMOVAL

Defendants, Marek Toczyłowski and L&M Express, LLC (collectively, “Removing Defendants”), through counsel, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and with a full reservation of any and all rights, claims, objections, and defenses, hereby file this Notice of Removal from the Superior Court of New Jersey, Law Division, Middlesex County, in which the action is now pending under Docket No. MID-L-1442-22 (“State Court Action”) to the United States District Court for the District of New Jersey, and respectfully state:

1. In accordance with Local Civil Rule 10.1(a), the addresses of the named parties are listed as follows:
 - a. Plaintiff, Jamie Chun-Lee alleges in his State Court Action Complaint that he is a resident of the State of New Jersey, resides at 80 Kelly Drive, Edison, NJ 08820, and is represented by Attorney Joseph J. Peters of Mandelbaum Barrett located at 510 Thornall Street, Suite 270, Edison, NJ 08837.
 - b. Defendant, Marek Toczyłowski, as alleged in Plaintiff’s State Court Action Complaint, is a resident of the Commonwealth of Pennsylvania, is domiciled in

East Stroudsburg, PA, and is represented by Saxton & Stump located at 4250 Crums Mill Road, Suite 201, Harrisburg, PA 17112.

- c. Defendant L&M Express, LLC, as alleged in Plaintiff's State Court Action Complaint, is a limited liability company existing under the laws of the Commonwealth of Pennsylvania, has a principal place of business located at East Stroudsburg, PA, and is represented by Saxton & Stump located at 4250 Crums Mill Road, Suite 201, Harrisburg, PA 17112
- d. Defendants John Does 1-4 and ABC Corps. 1-4 are alleged by Plaintiff to be fictitious persons and business entities whose identities are presently unknown to Plaintiff.

Procedural History

2. On or about March 22, 2022, Plaintiff initiated the State Court Action in the Superior Court of New Jersey, Law Division, Middlesex County. A true and correct copy of Plaintiff's Complaint filed at docket number MID-L-1442-22 in the Superior Court of New Jersey, Law Division, Middlesex County, is attached hereto as Exhibit "A."

3. On or about March 22, 2022, Counsel for Defendants Marek Toczylowski and L&M Express, LLC was provided a copy of the Complaint by Plaintiff's Counsel. A true and correct copy of the Facsimile providing the Complaint is attached hereto as Exhibit "B."

4. On or about March 28, 2022, Plaintiff filed a First Amended Complaint. A true and correct copy of the Plaintiff's First Amended Complaint filed in the State Court Action is attached as Exhibit "C."

5. No other proceedings have been filed in the State Court Action, and the Complaint and First Amended Complaint constitute the entirety of the pleadings and filings of which the Removing Defendants are aware.

Grounds for Removal

6. Pursuant to Sections 1411 and 1446 of Title 28 of the United States Code, Removing Defendants hereby remove this action to the United States District Court for the District

of New Jersey, the judicial district in which this action is pending.

7. Plaintiff's First Amended Complaint alleges claims that properly invoke the diversity jurisdiction of this Court. *See* 28 U.S.C. § 1332. Plaintiff's First Amended Complaint alleges that Plaintiff Jamie Chun-Lee was injured in a motor vehicle accident that occurred on June 28, 2021. Plaintiff alleges that the Removing Defendants' negligence, carelessness, and recklessness caused a motor vehicle accident whereby Plaintiff suffered multiple severe and permanent injuries of both person and property.

8. Removal of this action from the Superior Court of New Jersey, Law Division, Middlesex County to this Court is, therefore, proper under 28 U.S.C. §1441(a) because this Court would have the original jurisdiction of the action under 28 U.S.C. § 1332 (Diversity of Citizenship Jurisdiction) had the action initially been filed in this Court.

9. Diversity of Citizenship Jurisdiction is properly invoked by Removing Defendants, pursuant to 28 U.S.C. § 1332(a)(1) because:

- a. A reasonable reading of Plaintiff's First Amended Complaint establishes that the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00), where Plaintiff expressly pleads that this is an action involving claims for multiple severe and permanent injuries, past and future medical costs related to treatments and surgery, pain and suffering, loss of enjoyment of life, and property damage. *See Exhibit "C."*
- b. As alleged in the First Amended Complaint, Plaintiff resides in 80 Kelly Drive, Edison, NJ 08820 since at least the date of the motor vehicle accident on June 28, 2021, and has, upon information and belief, remained domiciled in Edison, NJ until and past the filing of Plaintiff's Complaint on March 22, 2022. Thus, Plaintiff is a citizen of New Jersey. *See Exhibit "C."*
- c. At all relevant times, Defendant Marek Toczyłowski has been a resident of the Commonwealth of Pennsylvania and remains domiciled in East Stroudsburg, PA. Thus, Defendant Marek Toczyłowski is a citizen of the Commonwealth of Pennsylvania.
- d. Pursuant to 28 U.S.C. § 1332(c)(1), Defendant L&M Express, LLC is and, at all times relevant hereto, has been a limited liability company existing under the laws

of the Commonwealth of Pennsylvania with its principal place of business in East Stroudsburg, PA. Thus, Defendant L&M Express, LLC is a citizen of the Commonwealth of Pennsylvania.

- e. Pursuant to 28 U.S.C. § 1441(b)(1), the citizenship of Defendants sued under fictitious names, here John Does 1-4 and ABC Corps. 1-4, shall be disregarded when determining diversity jurisdiction.
- f. Counsel for Removing Defendants received a copy of the Complaint, the initial pleading, on March 22, 2022. *See Exhibit “B.”*

10. In light of the foregoing, this Court has Original Diversity Jurisdiction over this case pursuant to 28 U.S.C. § 1332 as the amount in controversy is greater than \$75,000.00 and the Plaintiff and Removing Defendants are citizens of different states.

11. The Removing Defendants do not waive any objections, exceptions, or defenses to Plaintiff's First Amended Complaint.

12. Upon filing the within Notice of Removal in the office of the Clerk of the United States District Court for the District of New Jersey, the Removing Defendants also file copies of this Notice with the Clerk of the Superior Court of New Jersey, Law Division, Middlesex County, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. §§ 1441 and 1446(b).

13. Neither of the Removing Defendants previously sought to remove this action.

14. As Removing Defendants are the only properly named and identified defendants, all named and served Defendants join in this request.

15. This Notice is timely filed under 28 U.S.C. §1446(b) because Plaintiff's Complaint in this action was filed on March 22, 2022. This Notice of Removal is filed within thirty (30) days of the date in which Removing Defendants were served on March 22, 2022, and within one year of the commencement of the action.

WHEREFORE, Defendants Marek Toczyłowski and L&M Express, LLC respectfully

request, given that the statutory requirements have been satisfied, that the above-captioned action now pending in the Superior Court of New Jersey, law division, Middlesex County, be removed therefrom to this Court.

Respectfully submitted,

SAXTON & STUMP, LLC



Date: April 21, 2022

By: _____

Lane E. Brody, Esquire
Attorney ID No. 202295
4250 Crums Mill Road, Suite 201
Harrisburg, PA 17112
Telephone: (717) 941-1215
lb@saxtonstump.com
*Attorneys for Defendants,
Marek Toczyłowski and L&M Express, LLC*

CERTIFICATE OF SERVICE

I, Lane E. Brody, Esquire, certify that on this date, I served a certified true and correct copy of the foregoing Notice of Removal upon the following counsel of record, by electronic mail as follows:

Joseph J. Peters, Esquire
Mandelbaum Barrett
510 Thornall Street, Suite 270
Edison, NJ 08837

Respectfully submitted,

SAXTON & STUMP, LLC



Date: April 21, 2022

By: _____

Lane E. Brody, Esquire
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